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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,032	06/28/2001	Robert Cramer	12406-0004	5494

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Intellectual Property Group
Bose McKinney & Evans LLP
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, IN 46204

EXAMINER

JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/894,032

Applicant(s)

CRAMER, ROBERT

Examiner

Monique R Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 1-31 and 37-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/03 & 8/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. Applicant's election without traverse of Group VI, Claims 32-36 is acknowledged. Claims 1-31 and 37-45 have withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 32 is rejected under 35 U.S.C. 102(b) as being anticipated by Douglas et al (USPN 6,013,222.) Douglas et al teach an apparatus comprising a first extruder 3 and a second extruder 11 both coupled to a mixer 2 having a plurality of outlets 24, 29, coupled to a die 1 to receive the polymers from the two extruders to produce a film layer (Abstract; Figures 1 and 2; Col. 3-4.) Though Douglas et al do not specifically teach the material limitations as instantly claimed, such as a “non-linear pattern” and a “first plastic extrudant...visible within the layer due to the second plastic extrudant of the mixture being at least partially transparent”, the Examiner takes the position that these limitations do not affect the apparatus as claimed and are limitations with regards to a particular product that can be produced wherein the apparatus taught by Douglas et al is also capable of producing the same product.

4. Claims 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Bansal (USPN 4,542,686.) Bansal teaches an apparatus for making marbled pet food comprising two extruders

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coupled to a mixer coupled to a die wherein the pet food exiting the mixer is divided into substreams via plural outlets and then the substreams are discharged into a reconsolidated, partially mixed stream wherein the mixer has a housing and rotatable shaft with at least one projection and a bearing as claimed to permit expulsion of the mixture (Abstract; Figures; Col. 4-6.) Though the invention taught by Bansal is directed to pet food and not a plastic extruded layer wherein a first plastic extrudant is visible in a second plastic extrudant that is at least partially transparent, the Examiner takes the position that the material limitations as instantly claimed do not affect the apparatus as claimed and are limitations with regards to a particular product that can be produced wherein the apparatus taught by Bansal is also capable of producing the same product.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bansal in view of Weinstein et al (USPN 6,143,342.) The teachings of Bansal are discussed above.

Bansal further teach that the two streams from the two extruders can be mixed based upon the desired final appearance of the marbled product (Col.5) but do not teach that the plurality of outlets from the mixer include a plurality of first outlets having a first diameter and a plurality of second outlets having a second diameter, and more particularly as claimed in instant claim 36.

However, it is well known in the art that various die configurations can be utilized to produce a

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patterned product as taught by Weinstein et al, wherein one having ordinary skill in the art at the time of the invention would have been motivated to determine the optimum number, shape and size of the plural outlets to provide the desired patterned effect for a particular end use.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 571-272-1516. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Monique R. Jackson
Primary Examiner
Technology Center 1700
April 29, 2004